

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

HILLARY WALLS,

Plaintiff,

v.

PIERCE COUNTY SHERIFF'S  
DEPARTMENT, *et al.*,

Defendants.

Case No. C07-5152 RBL/KLS

ORDER TO SHOW CAUSE

This civil rights action has been referred to United States Magistrate Judge Karen L. Strombom pursuant to Title 28 U.S.C. § 636(b)(1) and Local MJR 3 and 4. Plaintiff has been granted leave to proceed *in forma pauperis*. Before the Court for review is Plaintiff's proposed civil rights complaint under 42 U.S.C. § 1983. (Dkt. # 1). Plaintiff seeks punitive and compensatory damages for the failure of the Defendants to return money and other property seized under warrant issued in 2002. (Dkt. # 1 at 3). The Court finds that Plaintiff must show cause why his complaint should not be dismissed for failure to state a claim under 42 U.S.C. § 1983.

**I. DISCUSSION**

In order to state a claim under 42 U.S.C. § 1983, a complaint must allege that the conduct

1 complained of was committed by a person acting under color of state law and that the conduct  
2 deprived a person of a right, privilege, or immunity secured by the Constitution or laws of the United  
3 States. *Parratt v. Taylor*, 451 U.S. 527, 535 (1981), *overruled on other grounds*, *Daniels v.*  
4 *Williams*, 474 U.S. 327 (1986). Section 1983 is the appropriate avenue to remedy an alleged wrong  
5 only if both of these elements are present. *Haygood v. Younger*, 769 F.2d 1350, 1354 (9th Cir.  
6 1985), *cert. denied*, 478 U.S. 1020 (1986).

7 Plaintiff alleges that \$690.00 was seized pursuant to a search warrant issued in 2002, based  
8 on “stale and false” information, and that Defendants continue to withhold this property, along with  
9 other items belonging to Plaintiff, including “la[p]tops, desktop computers and many other “things.”  
10 Plaintiff alleges that he has made several attempts to secure the return of his property by filing a risk  
11 management form with Pierce County and Pierce County Jail and by writing to the Defendants  
12 during the time he was incarcerated from 2002 to 2005. (*Id.* at 2).

13 Plaintiff appears to be challenging the propriety of a civil or criminal forfeiture action related  
14 to the criminal conviction for which he was previously incarcerated. Based on the facts alleged, the  
15 Court is unable to determine whether there is an ongoing state proceeding. If there is, the Court will  
16 generally not intervene absent extraordinary circumstances where the danger of irreparable harm is  
17 both great and immediate. *See Younger v. Harris*, 401 U.S. 37, 45- 46 (1971).

18 In addition, Plaintiff must set forth facts describing when and where and by whom he was  
19 deprived of a constitutional right. Plaintiff’s complaint must include factual allegations describing  
20 how each individually named Defendant caused or personally participated in causing him the  
21 constitutional harm that he claims he suffered.

22 Accordingly, it is ORDERED:

23 1. Plaintiff shall show cause why this petition should not be dismissed. A response is due  
24 by **May 31, 2007**. If Plaintiff fails to file a response or the response shows the Plaintiff cannot go  
25 forward the Court will enter a report and recommendation that the complaint be dismissed.

